



7020-02

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-1055]

Certain Mirrors with Internal Illumination and Components Thereof

Supplemental Notice of Commission Determination Not to Review an Initial Determination Finding the Sole Remaining Respondent in Default; Request for Written Submissions on Remedy, the Public Interest, and Bonding

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination (“ID”) (Order No. 10) finding the sole remaining respondent in default. The Commission requests written submissions, under the schedule set forth below, on remedy, public interest, and bonding.

FOR FURTHER INFORMATION CONTACT: Clint Gerdine, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436, telephone 202-708-2310. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436, telephone 202-205-2000. General information concerning the Commission may also be obtained by accessing its Internet server (<https://www.usitc.gov>). The public record for this investigation may be viewed on the Commission’s electronic docket (EDIS) at <https://edis.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission’s TDD terminal on 202-205-1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on May 8, 2017, based on a complaint filed by Electric Mirror, LLC of Everett, Washington (“Electric

Mirror”) and Kelvin 42 LLC of Pensacola, Florida (“Kelvin”). 82 Fed. Reg. 21405 (May 8, 2017). The complaint, as amended, alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain mirrors with internal illumination and components thereof by reason of infringement of certain claims of U.S. Patent Nos. 7,853,414 (“the ’414 patent”) and 7,559,668 (“the ’668 patent”). The notice of investigation named as respondents Lumidesign Inc. of Ontario, Canada (“Lumidesign”); Majestic Mirrors & Frame, LLC of Miami, Florida (“Majestic”); and Project Light, LLC (d/b/a Project Light, Inc., Prospetto Light, LLC, and/or Prospetto Lighting, LLC) of Stow, Ohio (“Project Light”). The Office of Unfair Import Investigations was not named as a party to the investigation.

The Commission previously terminated the investigation in part based on withdrawal of allegations concerning complainant Kelvin, respondent Majestic, and the ’668 patent. Order No. 6 (June 19, 2017), *not reviewed* Notice (July 10, 2017). The Commission also previously terminated the investigation with respect to respondent Lumidesign based on a settlement agreement. Order No. 8 (July 6, 2017), *not reviewed* Notice (July 27, 2017).

The Commission successfully served the complaint and notice of investigation on Project Light on May 3, 2017. *See* Memorandum in Support of Motion by Complainant Electric Mirror, LLC for an Order to Show Cause And for Entry of Default as to Sole Remaining Respondent Project Light, LLC And to Suspend the Procedural Schedule (June 26, 2017) at Ex. A. On June 26, 2017, Electric Mirror moved for an order directing Project Light to show cause why it should not be held in default for failing to respond to the complaint, notice of investigation, and discovery requests. *Id.* at 1. On July 10, 2017, the ALJ granted the motion and ordered Project

Light to show cause why it should not be held in default. Project Light did not respond.

On August 3, 2017, the ALJ issued the subject ID, finding Project Light in default. No petition for review of the ID was filed.

The Commission has determined not to review the subject ID.

Section 337(g)(1) and Commission Rule 210.16(c) authorize the Commission to order relief against a respondent found in default, unless, after considering the public interest, it finds that such relief should not issue.

In connection with the final disposition of this investigation, the Commission may: (1) issue an order that could result in the exclusion of articles manufactured or imported by Project Light; and/or (2) issue cease and desist orders that could result in Project Light being required to cease and desist from engaging in unfair acts in the importation and sale of such articles. Accordingly, the Commission is interested in receiving written submissions that address the form of remedy, if any, that should be ordered. If a party seeks exclusion of an article from entry into the United States for purposes other than entry for consumption, the party should so indicate and provide information establishing that activities involving other types of entry either are adversely affecting it or likely to do so. For background, see *Certain Devices for Connecting Computers via Telephone Lines*, Inv. No. 337-TA-360, USITC Pub. No. 2843, Comm'n Op. at 7-10 (December 1994).

If the Commission contemplates some form of remedy, it must consider the effects of that remedy upon the public interest. The factors that the Commission will consider include the effect that the exclusion order and/or cease and desists orders would have on (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) U.S. production of articles that are like or directly competitive with those that are subject to investigation, and (4) U.S.

consumers. The Commission is therefore interested in receiving written submissions that address the aforementioned public interest factors in the context of this investigation.

If the Commission orders some form of remedy, the U.S. Trade Representative, as delegated by the President, has 60 days to approve or disapprove the Commission's action. *See* Presidential Memorandum of July 21, 2005, 70 Fed. Reg. 43251 (July 26, 2005). During this period, the subject articles would be entitled to enter the United States under bond, in an amount determined by the Commission and prescribed by the Secretary of the Treasury. The Commission is therefore interested in receiving submissions concerning the amount of the bond that should be imposed if a remedy is ordered.

WRITTEN SUBMISSIONS: Parties to the investigation, interested government agencies, and any other interested parties are encouraged to file written submissions on the issues of remedy, the public interest, and bonding. Electric Mirror is requested to submit proposed remedial orders for the Commission's consideration. Electric Mirror is also requested to state the HTSUS numbers under which the accused products are imported, and to state the date that the '414 patent expires. Electric Mirror is further requested to supply identification information on any known importers.

The deadline for filing written submissions has been extended to the close of business on September 20, 2017. The deadline for filing reply submissions has been extended to the close of business on September 27, 2017. No further submissions on these issues will be permitted unless otherwise ordered by the Commission.

Persons filing written submissions must file the original document electronically on or before the deadline stated above and submit eight true paper copies to the Office of the Secretary pursuant to section 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR

210.4(f)). Submissions should refer to the investigation number (“Inv. No. 337–TA–1055”) in a prominent place on the cover page and/or the first page. (*See Handbook for Electronic Filing Procedures*, http://www.usitc.gov/secretary/fed_reg_notices/rules/handbook_on_electronic_filing.pdf). Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) by the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel^[1], solely for cybersecurity purposes. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.

The authority for the Commission’s determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337), and in part 210 of the Commission’s Rules of Practice and Procedure (19 C.F.R. Part 210).

^[1] All contract personnel will sign appropriate nondisclosure agreements.

By order of the Commission.

Issued: September 8, 2017.

Lisa R. Barton,
Secretary to the Commission.

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